

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

PHOENIX BEVERAGES, INC., et al.,

Plaintiffs,

-against-

EXXON MOBIL CORPORATION, et al.,

Defendants.

Case No. 1:12-CV-03771 (PKC) (JO)

**ANSWER TO
THIRD-PARTY DEFENDANT
RIVER TERMINAL DEVELOPMENT'S
COUNTERCLAIMS AGAINST
DEFENDANT/THIRD-PARTY PLAINTIFF
EXXON MOBIL CORPORATION**

EXXON MOBIL CORPORATION,

Third-Party Plaintiff,

-against-

ACE WASTE OIL, INC., et al.,

Third-Party Defendants.

Defendant/third-party plaintiff Exxon Mobil Corporation (“ExxonMobil”) by its attorneys as and for its answer to the counterclaim (“Counterclaim”) of third-party defendant River Terminal Development (“Scrap Yard Division”) (a/k/a RTD Properties) or (“Third-Party Defendant”), states as follows:

1. The allegations contained in paragraph 1 of the Third-Party Defendant’s Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the extent the allegations refer to various statutes and/or the Third-Party Complaint, such statutes and the Third-Party Complaint speak for themselves.

2. The allegations contained in paragraph 2 of the Third-Party Defendant's Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the extent the allegations refer to various statutes and/or the Third-Party Complaint, such statutes and the Third-Party Complaint speak for themselves.

3. The allegations contained in paragraph 3 of the Third-Party Defendant's Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the extent the allegations refer to various statutes and/or the Third-Party Complaint, such statutes and the Third-Party Complaint speak for themselves.

4. The allegations contained in paragraph 4 of the Third-Party Defendant's Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the extent the allegations refer to various statutes and/or the Third-Party Complaint, such statutes and the Third-Party Complaint speak for themselves.

5. The allegations contained in paragraph 5 of the Third-Party Defendant's Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the extent the allegations refer to various statutes and/or the Third-Party Complaint, such statutes and the Third-Party Complaint speak for themselves.

6. The allegations contained in paragraph 6 of the Third-Party Defendant's Counterclaim refer to the Third-Party Complaint to which no responsive pleading is required. Furthermore, to the

extent the allegations refer to various statutes and/or the Third-Party Complaint, such statutes and the Third-Party Complaint speak for themselves.

7. The allegations contained in paragraph 7 of the Counterclaim state legal conclusions to which no responsive pleading is required. Furthermore, to the extent this paragraph refers to various statutes, such statutes speak for themselves.

8. The allegations contained in paragraph 8 of the Counterclaim state legal conclusions to which no responsive pleading is required. Moreover, to the extent the allegations refer to various statutes, such statutes speak for themselves. To the extent an answer is required, ExxonMobil denies the allegations contained in paragraph 8 of the Counterclaim.

AFFIRMATIVE DEFENSES

ExxonMobil adopts and incorporates by reference the affirmative defenses pleaded in its Answer to the Complaint and incorporates by reference the affirmative defenses pleaded by all other parties.

WHEREFORE, ExxonMobil demands judgment against River Terminal Development as follows:

- a) dismissing River Terminal Development's Counterclaim;
- b) awarding ExxonMobil its reasonable attorneys' fees;

- c) awarding ExxonMobil its cost of suit; and
- d) such other relief as the Court shall deem just and equitable.

Dated: November 18, 2013
New York, New York

MCCUSKER, ANSELM, ROSEN &
CARVELLI, P.C.

By: _____/s/

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